

Wise, Bob

From: Wise, Bob
Sent: Thursday, August 19, 2004 8:30 AM
To: 'Carter, Christopher H. M.'
Cc: Gill, Patty
Subject: RE: Subpoena for American National Power, Inc. in Murray v. TXU Corp., et al.

Thanks.

-----Original Message-----

From: Carter, Christopher H. M. [mailto:ccarter@HASLAW.com]
Sent: Thursday, August 19, 2004 8:25 AM
To: Wise, Bob
Subject: RE: Subpoena for American National Power, Inc. in Murray v. TXU Corp., et al.

I will have a response to you today, I hope by early afternoon.

-----Original Message-----

From: Wise, Bob [mailto:bwise@hunton.com]
Sent: Thursday, August 19, 2004 9:17 AM
To: Carter, Christopher H. M.
Cc: Gill, Patty
Subject: RE: Subpoena for American National Power, Inc. in Murray v. TXU Corp., et al.

Chris - I haven't received anything. What's its status?

-----Original Message-----

From: Carter, Christopher H. M. [mailto:ccarter@HASLAW.com]
Sent: Monday, August 16, 2004 7:29 PM
To: Wise, Bob
Subject: RE: Subpoena for American National Power, Inc. in Murray v. TXU Corp., et al.

Bob: As you and I discussed last Friday, I have reviewed your draft Notice with my client. In addition, per your request, I have put our responses in writing, and my client is reviewing the same. I anticipate being in a position to deliver the written responses to you tomorrow. If you have any questions, please call. Chris.

-----Original Message-----

From: Wise, Bob [mailto:bwise@hunton.com]
Sent: Tuesday, August 10, 2004 3:33 PM
To: Carter, Christopher H. M.
Cc: Gill, Patty; dpooole@txu.com; bapooji@tth.com
Subject: Subpoena for American National Power, Inc. in Murray v. TXU Corp., et al.

Chris - per our discussion, attached is the deposition notice that we intend to serve on Plaintiff's attorney, which will then be turned into a subpoena duces tecum and served on American National Power, Inc. (ANP). As I've mentioned, we believe it is imperative that we depose ANP as soon as possible and given the unexpected delay in obtaining a ruling on our motion to compel, we intend to subpoena ANP's deposition. In addition, because we believe a deposition without ANP's documents, would be less productive, the notice contains (any the subpoena will contain) a document request. You'll note that, even though I believe the original subpoena was proper, the attached has slightly more

- specific document requests in an effort to accomodate ANP's objections to the earlier subpoena.

As I also mentioned, I wanted to provide you with the notice before serving a subpoena on ANP as a courtesy so that it can provide me with some dates for a deposition that are convenient for it and with the hope that, if ANP agrees to appear for the deposition and produce the requested documents, we can moot the pending motion to compel. Consequently, I'd appreciate it if you'd review the attached with ANP and let me know if it is willing to produce one or more witnesses to testify about the identified subject matters and to produce the requested documents.

Based on our discussions, it is my understanding that ANP will review the attached and you'll let me know its position tomorrow. I also understand that ANP wants my clients to pay its costs incurred in connection with the motion to compel before agreeing to attend the deposition and produce documents. As I told you, there's no reason to present that request to my clients unless I'm assured that ANP is willing to comply with the subpoena.

If ANP has substantial and intractable objections to the notice, please so advise me. In such an event, I believe the best course of action would be for us to serve the subpoena and then once it is served confer in an effort to resolve ANP's objections before you either file a motion for protection or we file a motion to compel. I sincerely hope that we'll be able to resolve any dispute so we can promptly depose ANP and obtain its documents.

<<DALLAS-120363-v1-Notice of Deposition - ANP.DOC>>